

OFFICE OF THE  
Attorney General  
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Phoenix, Arizona 85007

BRUCE E. BABBITT  
ATTORNEY GENERAL

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March 13, 1975

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ARIZONA ATTORNEY GENERAL

Honorable James Elliott  
House of Representatives  
House Wing, Capitol Building  
Phoenix, Arizona 85007

Dear Representative Elliott:

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Y  
Your letter of January 16, 1975 requests our opinion as to whether A.R.S. § 36-1233.B, concerning the formation of hospital districts, is constitutional. It is the policy of this office not to pass upon the constitutionality of legislation enacted by the Arizona Legislature, except in cases where there is a compelling need for such an opinion and the constitutional status of the legislation is not arguable.

We believe that the provision in question is constitutional or that its validity is arguable in view of the decision of the Arizona Supreme Court in Roberts v. Spray, 71 Ariz. 60, 223 P.2d 808 (1950) copy enclosed. Although the decision does not reflect whether the lower court was presented with the specific question you have raised, i.e. whether the statutory requirement that there be a preexisting offer by a non-profit Arizona corporation to lease the facility to be constructed by the proposed hospital district, the argument is entirely tenable that the legislative objective was to ensure that if a proposed district were established and a hospital constructed, there would be a responsible entity obligated to make payments to the district for a period of years and thus alleviate the possibility that income from the facility would not be available to offset the cost of paying off the bonds.

We, therefore, find it necessary to decline to issue an official opinion regarding the constitutionality of A.R.S. § 36-1233(B).

Very truly yours,

BRUCE E. BABBITT  
Attorney General

WILLIAM J. WHITE  
Assistant Attorney General

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